

INDIANA BOARD OF TAX REVIEW

Final Determination Findings and Conclusions Lake County

Petition #: 45-041-02-1-5-00112
Petitioner: William Lloyd Chandler Revocable Trust
Respondent: Department of Local Government Finance
Parcel #: 003-23-09-0013-0003
Assessment Year: 2002

The Indiana Board of Tax Review (the "Board") issues this determination in the above matter, and finds and concludes as follows:

Procedural History

1. An informal hearing as described in Ind. Code § 6-1.1-4-33 was held in October 2003. The Department of Local Government Finance (DLGF) determined that the Petitioner's property tax assessment for the subject property was \$114,300. The DLGF's Notice of Final Assessment was sent to the Petitioner on March 12, 2004.
2. The Petitioner filed a Form 139L on April 13, 2004.
3. The Board issued a notice of hearing to the parties on August 31, 2004.
4. A hearing was held on October 5, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

Facts

5. The subject property is a converted two-family dwelling located at 312 Maple Street, Crown Point, Center Township, Lake County.
6. The Special Master did not conduct an on-site visit of the property.
7. Assessed Values of the subject property as determined by the DLGF are:
Land: \$26,800 Improvements: \$87,500 Total: \$114,300

Assessed Value requested by the Petitioner per the Form 139L are:
Land: \$26,800 Improvements: \$60,000 Total: \$86,800

8. The persons indicated on the attached sign-in sheet (Board Exhibit C) were present at the hearing.

9. The following persons were present and sworn in at the hearing:

For Petitioner: Judith Chandler, Authorized Representative

For Respondent: David Depp, Cole-Layer-Trumble (CLT), representing the DLGF

Issues

10. Summary of Petitioner's contentions in support of an alleged error in assessment:

- a. The subject structure is a 1½-story dwelling and not 2-story dwelling as shown on the property record card (PRC). *Chandler testimony; Petitioner Exhibits 5-7.*
- b. The current PRC increased the grade and design factor from "D+1" to "D+2", changed the "effective year" of construction to 1950, and lowered the physical depreciation from 55% to 40%, without any improvements having been made to the subject property. The Petitioner also submitted a highlighted Grade Specification Table. *Chandler testimony; Petitioner Exhibits 5-6, 10.*
- c. The Petitioner submitted PRC's and sales disclosure statements for four (4) properties that she asserts are similar to the subject property. The sale prices of those properties demonstrate that the subject property's assessment exceeds its market value. *Chandler testimony; Petitioner Exhibits 11-20.*
- d. There are unseen factors that detract from the grade, design and value of the subject property. Some of those factors are: the garage had a dirt floor in 1999, the house was steel sided in 1999, the chimney was leaning and had to be replaced in 1999, and there is no interior access to the upstairs or the basement. *Chandler testimony.*
- e. In 1999 the rents received were \$480 downstairs and \$360 upstairs. The rents have been raised since that time. *Chandler testimony.*

11. Summary of Respondent's contentions in support of assessment:

- a. The subject dwelling looks like a 2-story structure from the road and like a 1½-story structure from the side. The subject property should be assessed as a 1¾-story residence. *Depp testimony; Respondent Exhibit 2.*
- b. The Respondent did not comment on the grade and depreciation issues. An explanation of those issues can be found in the 2002 Real Property Assessment Manual. *Depp testimony.*

- c. CLT was not allowed enter any structures and therefore could not determine interior conditions. *Depp testimony.*
- d. The Respondent submitted evidence concerning the sale of three (3) two-family homes in Crown Point that are similar to the subject property. *Respondent Exhibit 4.*
- e. After reviewing the Petitioner's evidence concerning the sales of comparable properties as well as the Respondent's own evidence of comparable sales, the Respondent's representative testified that an assessment of \$90,000 would be fair and reasonable. *Depp testimony; Respondent Exhibits 4-7.*

Record

- 12. The official record for this matter is made up of the following:
 - a. The Petition, the February 21, 2005, letter from Ken Daly, Program Director, Indiana Board of Tax Review, to Judith Chandler and the March 4, 2005, facsimile transmission from Judith Chandler to Ken Daly, together with attachments thereto.¹
 - b. The tape recording of the hearing labeled Lake Co. #312.
 - c. Exhibits:
 - Petitioner Exhibit 1: Power of Attorney
 - Petitioner Exhibit 2: Notice of Final Assessment
 - Petitioner Exhibit 3: Form 139L
 - Petitioner Exhibit 4: Summary of Arguments
 - Petitioner Exhibit 5: 1998 PRC
 - Petitioner Exhibit 6: 2003 PRC
 - Petitioner Exhibit 7: Photographs of subject dwelling
 - Petitioner Exhibit 8: Photographs of subject foundation and basement
 - Petitioner Exhibit 9: Photograph of subject garage
 - Petitioner Exhibit 10: Grade Specification Table
 - Petitioner Exhibit 11: Comparables Summary
 - Petitioner Exhibit 12: Comparables Summary – Continued
 - Petitioner Exhibit 13: Comparable Sales Disclosure
 - Petitioner Exhibit 14: Comparable PRC
 - Petitioner Exhibit 15: Comparable Sales Disclosure
 - Petitioner Exhibit 16: Comparable PRC
 - Petitioner Exhibit 17: Comparable Sales Disclosure
 - Petitioner Exhibit 18: Comparable PRC
 - Petitioner Exhibit 19: Comparable Sales Disclosure
 - Petitioner Exhibit 20: Comparable PRC
- Respondent Exhibit 1: Form 139L

¹ The Petitioner subsequently provided a hard copy of her facsimile transmission.

Respondent Exhibit 2: Subject PRC
Respondent Exhibit 3: Photograph of the subject dwelling
Respondent Exhibit 4: Comparable Summary, PRCs and photographs
Respondent Exhibit 5: Petitioner's Comparables' PRCs and photographs
Respondent Exhibit 6: Comparable Sales Disclosure
Respondent Exhibit 7: Comparable PRC for Exhibit 6 Sale

Board Exhibit A – Form 139L Petition
Board Exhibit B – Notice of Hearing on Petition
Board Exhibit C – Sign-in Sheet

d. These Findings and Conclusions.

Analysis

13. The most applicable governing cases/laws/regulations are:
- a. A petitioner seeking review of a determination of the DLGF has the burden to establish a prima facie case proving that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Twp. Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also*, *Clark v. State Bd. of Tax Comm'rs*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
 - b. In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Twp. Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer’s duty to walk the Indiana Board . . . through every element of the analysis”).
 - c. Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut Petitioner’s evidence. *See American United Life Ins. Co. v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id.*, *Meridian Towers*, 805 N.E. 2d 479.
15. After reviewing the evidence the Respondent conceded that the value of the subject property should be lowered and that a fair and reasonable assessment would be \$90,000. Thus, it is undisputed that the assessed value of the subject property should not exceed \$90,000. While the Petitioner did not indicate at the hearing whether she agreed with the value proposed by the Respondent, she subsequently indicated her agreement via facsimile transmission to the Board dated March 4, 2005.

Conclusion

16. Based upon the Respondent’s concession, the preponderance of the evidence demonstrates that the assessment should be reduced to \$90,000.

Final Determination

In accordance with the above findings and conclusions, the Indiana Board of Tax Review now determines that the assessment should be changed to \$90,000.

ISSUED: _____

Commissioner,
Indiana Board of Tax Review

IMPORTANT NOTICE

- Appeal Rights -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <http://www.in.gov/judiciary/rules/tax/index.html>. The Indiana Trial Rules are available on the Internet at http://www.in.gov/judiciary/rules/trial_proc/index.html. The Indiana Code is available on the Internet at <http://www.in.gov/legislative/ic/code>.